Coalition for a Sustainable Delta

June 24, 2011

**VIA E-MAIL**

Phil Isenberg
Chair, Delta Stewardship Council
650 Capitol Mall
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Re: Comments on Chapter 2 of the Fourth Staff Draft Delta Plan

Dear Chairman Isenberg,

The Coalition for a Sustainable Delta (Coalition) respectfully submits the following comments on the fourth staff draft Delta Plan. The Coalition consists of persons and entities that are engaged or interested in agricultural activities in the Central Valley, and its members depend on the Sacramento and San Joaquin river systems for substantial portions of their water supply. The Coalition is engaged in a wide array of activities to protect the Delta and its native species, and is committed to promoting strategies to ensure the sustainability of the Delta's ecosystems. The Coalition is very concerned that the Delta Stewardship Council (Council) has failed to give due consideration to public input to date and to incorporate the best available scientific information into the draft Delta Plan. Such shortcomings undermine the integrity of the entire planning process and, in our view, must be remedied.

In light of the breadth of the draft Delta Plan and the narrow window to provide comments for consideration by the Council, we will limit our comments to Chapter 2. We have in the past submitted extensive comments on the draft Delta Plan including an April 4, 2011 letter that focused primarily on Chapter 2. The Council has a legal obligation to base the Delta Plan on the best available scientific information. Water Code §§ 85200(a), 85300(a). Chapter 2 simply does not incorporate the best available scientific information despite the fact that it is intended to address science and adaptive management.

In the April 4 letter, we described our discomfort with the facile description of both the science required to support rigorous and appropriately directed restoration efforts in the Delta as well as the structure of the adaptive management framework and approaches necessary to inform and implement those efforts in the draft Delta Plan. Had your CalFed predecessor not failed in delivering reliable science to planning and management in the estuary, as evidenced by the welter of desired fishes declining dramatically during the past decade, the mere recapitulation of fundamental principles of and elements for generating reliable scientific information and using it in adaptive programs to guide accountable management might be acceptable. But, the concepts and language in Chapter 2 of the current draft Delta Plan are a mirror image of content in enabling guidance documents for CalFed more than a decade ago, such as the Strategic Plan

Core Team's Strategic Plan for the Ecosystem Restoration Program (Sept. 30, 1998). In straightforward terms, the Council is now crafting a Delta Plan – because science, described in the same platitudes, and adaptive management, illustrated with the same framework flow charts – failed to deliver via CalFed for the Delta's at-risk species, its stakeholders, and the state's citizens. Chapter 2, in recycling superficial descriptions of science and adaptive management in landscape-level natural resource planning, raises serious questions regarding the commitment of the Council to do better than its predecessor.

We believe that Chapter 2 must be much more explicit in describing how Delta planning and management will benefit from "best science," by not just listing the guidelines governing "the production and use of scientific information" (Chapter 2, page 33), but by addressing how scientific information can be better used to guide land acquisition, restoration efforts, and resources management, given the unique opportunities afforded to and constraints faced by conservation planners and resource managers in the Delta. Among other reasons, science has failed to contribute to the survival and recovery of the delta smelt and salmonids in the Delta, because the U.S. Fish and Wildlife Service and National Marine Fisheries Service, respectively, have failed to follow the directive from Congress and their own guidelines to "use the best available scientific and commercial data" or include structured effects analyses in their agency determinations, and have not ascribed to the tenets of good science and its application as presented in Chapter 2. How exactly can the Council expect to bring the benefits of rigorous science and responsive adaptive management to the restoration of the Delta, when the federal wildlife agencies eschew essentially all elements and features of the "comprehensive science plan" that are presented in Chapter 2? Such agency conduct has led stakeholders to seek neutral assessment of agency science from experts who are neither controlled nor funded by the Interagency Ecological Program (IEP) member agencies (e.g., via the federal courts aided by court-appointed experts and the National Research Council), rather than rely on the Council's Independent Science Board, where it rightfully should reside.

Chapter 2 does little to suggest that the Council recognizes that the IEP does not produce scientifically reliable information, collected and analyzed using best available tools and methods, and has not contributed to delivering the research findings and monitoring results that are necessary for a successful restoration program. And, Chapter 2 makes clear that the Council does not appreciate the need for a firewall to be established between the regulatory agencies that now control the resource management agenda in the Delta and those carrying out the scientific studies that should be informing that agenda and evaluating the efficacy of measures intended to protect species and their habitats. This conclusion is especially frustrating, because, as we suggested in previous comments, the Council is potentially well positioned to manage the boundary between regulatory authority and independent and neutral science, and, in so doing, de-politicize biology and hydrology in service to achieving a healthy and sustainable Delta ecosystem.

Surprisingly, in this fourth staff draft Delta Plan, the Council consistently fails to cite or incorporate the best available scientific information. Most notably, the Council fails to cite – or even acknowledge the existence of – two National Research Council Committee reports directly relevant to the Council's work (NRC 2010, 2011). One of those reports emphasizes the critical

role of effects analyses in management of at-risk species and cites to a number of sources on the subject that are also conspicuously absent from the draft Delta Plan (NRC 2011 citing EPA 2003, Murphy and Weiland 2011, and NRC 2009). The other describes the critical role of life cycle models stating that "development of such models be given a high priority within the agencies" (NRC 2010, p. 33). Important, contemporary scientific information regarding life cycle modeling of delta smelt and salmonids goes unmentioned in the draft Delta Plan (Maunder and Deriso, in press, Miller et al., under review, Cavallo 2011, Hilborn 2010, Deriso 2010). In addition, the draft Delta Plan eschews most of the standing literature regarding best available science (e.g., Joly et al. 2010, Bisbal 2002, Smallwood et al. 1999, Caroll et al. 1996). It also does not reflect consideration of recommendations by prominent expert review panels other than the NRC that have opined on important aspects of resource management in the estuary (e.g., Gross et al. 2010, Cummins et al. 2008). Many of the foregoing references were cited and discussed by the Coalition in past letters to the Council, which makes their absence all the more curious. It is unclear whether Council staff are poorly informed or purposely selective in their use of available scientific information. In either case, the resulting draft Delta Plan has plain shortcomings.

In light of the foregoing, we urge the Council to overhaul Chapter 2 but only after a careful review of the written comments of all stakeholders and completion of a comprehensive literature survey. We have included a list of references as Exhibit 1 to this letter to aid in completion of the literature survey. Further, there is a substantial body of available knowledge the Council can and should draw upon in formulating the Delta Plan, including a robust, heretofore untapped literature regarding science and adaptive management. We would be pleased to discuss this input with the Council and/or staff at your convenience.

Sincerely,

William D. Phillimore
Board Member

enclosure

**Exhibit 1 – List of References**


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